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Patrick Weslowski

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ALEXANDRIA DEVORE, an individual,

Plaintiff,

vs.

LAS VEGAS METROPOLITAN POLICE

DEPARTMENT, a municipal corporation;

SHERIFF JOSEPH LOMBARDO, an

individual; LIEUTENANT KURT

MCKENZIE, an individual, SONNY

URANICH, an individual, PATRICK

WESLOWSKI, an individual, UNKNOWN

OFFICERS 3-12, individuals,

Defendants.

Case Number:

22-cv-01045-CDS-BNW

**STIPULATION AND ORDER TO
EXTEND DISCOVERY PLAN AND
SCHEDULING ORDER DEADLINES**

(SECOND REQUEST)

Plaintiff Alexandria Devore (“Plaintiff”), by and through her counsel of record, Margaret A. McLetchie, Esq., N. Pieter O’ Leary, Esq. and Leo S. Wolpert, Esq., of McLetchie Law, and Defendants, the Las Vegas Metropolitan Police Department (the “Department” or “LVMPD”), Sheriff Joseph Lombardo (“Lombardo”), Lieutenant Kurt McKenzie (“McKenzie”), Officer Sonny Uranich (“Uranich”) and Officer Patrick Weslowski (“Weslowski”), collectively (“LVMPD Defendants”), by and through their counsel of record, Craig R. Anderson, Esq. and Jackie V. Nichols, Esq., of Marquis Aurbach, hereby stipulate and agree to extend the Discovery Plan and Scheduling Order deadlines an additional one

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1 hundred twenty (120) days. This Stipulation is being entered in good faith and not for purposes
2 of delay (supplemented information noted in **bold-face** type).

3 **I. STATUS OF DISCOVERY.**

4 **A. PLAINTIFF'S DISCOVERY.**

5 1. Plaintiff's Initial Disclosure of Witnesses and Documents Pursuant to FRCP
6 26.1(a)(1) dated October 3, 2022.

7 2. Plaintiff's Interrogatories to Defendant Las Vegas Metropolitan Police
8 Department - Set One dated October 26, 2022.

9 3. Plaintiff's Request for Production to Defendant Las Vegas Metropolitan Police
10 Department - Set One dated October 28, 2022.

11 **4. Plaintiff Alexandria Devore's Requests for Production to LVMPD - Set**
12 **Two dated May 16, 2023.**

13 **B. DEFENDANTS' DISCOVERY.**

14 1. LVMPD Defendants' Initial Disclosure of Witnesses and Documents Pursuant
15 to FRCP 26.1(a)(1) dated October 3, 2022.

16 2. LVMPD's Answers to Plaintiff Alexandria Devore's Interrogatories - Set One
17 dated November 28, 2023.

18 3. LVMPD Defendants' First Supplemental Disclosure of Witnesses and
19 Documents Pursuant to FRCP 26.1(a)(1) dated November 30, 2022.

20 4. LVMPD Defendants' Second Supplemental Disclosure of Witnesses and
21 Documents Pursuant to FRCP 26.1(a)(1), dated December 7, 2022.

22 5. LVMPD's Responses to Plaintiff Alexandria Devore's Request for Production
23 - Set One dated December 7, 2022.

24 **6. LVMPD's First Set of Interrogatories to Plaintiff Alexandria Devore**
25 **dated April 21, 2023.**

26 **7. LVMPD's First Set of Requests for Production of Documents to Plaintiff**
27 **Alexandria Devore dated April 21, 2023.**

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1 **II. DISCOVERY THAT REMAINS TO BE COMPLETED.**

2 The Parties are actively conducting discovery. The Parties are working on depositions
3 of named parties and witnesses. For the reasons explained below, the Parties will need
4 additional time to propound written discovery, respond to written discovery, conduct
5 depositions, and disclose experts.

6 **III. SPECIFIC DESCRIPTION OF WHY EXTENSION IS NECESSARY.**

7 Pursuant to Local Rule 26-3, the Parties submit that good cause exists for the extension
8 requested. This is the first request for an extension of discovery deadlines in this matter. The
9 Parties acknowledge that, pursuant to Local Rule 26-3, a stipulation to extend a deadline set
10 forth in a discovery plan must be submitted to the Court no later than 21 days before the
11 expiration of the subject deadline, and that a request made within 21 days must be supported
12 by a showing of good cause. Further, requests made after the expiration of the subject deadline
13 will not be granted unless the Parties demonstrate that the failure to act was the result of
14 excusable neglect. Here, most of the deadlines the Parties seek to extend are outside of the 21-
15 day window, the deadline for initial expert disclosures, however, has passed. As such, the
16 excusable neglect applies to the deadline for initial expert disclosures.

17 The Parties have been diligently conducting discovery and continue to conduct
18 discovery. The Parties are working on scheduling the depositions of named parties and
19 witnesses. LVMPD Defendants have discovery responses due on June 19, 2023. Additionally,
20 Plaintiff has sought relief (ECF No. 38) from the Court's May 19, 2023, Order (ECF No. 37)
21 and also filed a Motion for Leave to File a Second Amended Complaint to name previously
22 unidentified Doe Officers and add additional causes of action (ECF No. 39). As such, the
23 Parties will need additional time to propound written discovery, respond to written discovery,
24 continue to resolve outstanding discovery disputes, and conduct depositions. The Parties
25 contend an extension of discovery deadlines enables them to continue to conduct necessary
26 discovery so that this matter is fairly resolved and give the experts the opportunity to review
27 all discovery produced in this dispute.

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1 Finally, the Parties together request this in good faith and to further the resolution of
2 this complicated case on the merits, and not for any purpose of delay.

3 As noted above, the good cause analysis is proper for the majority of dates the Parties
4 seek to extend, however, this request is being made after the expiration of the initial and
5 rebuttal expert disclosures, to which the “excusable neglect” standard is the appropriate
6 standard.

7 The Parties meet both the good cause and excusable neglect standard. “Good cause to
8 extend a discovery deadline exists ‘if it cannot reasonably be met despite the diligence of the
9 party seeking the extension.’” *Derosa v. Blood Sys., Inc.*, No. 2:13-cv-0137-JCM-NJK, 2013
10 U.S. Dist. LEXIS 108235, 2013 WL 3975764, at 1 (D. Nev. Aug. 1, 2013) (quoting *Johnson*
11 *v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)); *see also* Fed. R. Civ. P. 1
12 (providing that the Rules of Civil Procedure “should be construed, administered, and
13 employed by the court and the parties to secure the just, speedy, and inexpensive
14 determination of every action and proceeding”).

15 As the procedural history of this case illustrates, the Parties have been diligent in
16 litigating this matter. The Parties have been diligently conducting discovery and continue to
17 conduct discovery but an extension is still needed to efficiently continue discovery and
18 manage the case. Plaintiff recently sought leave to file her Second Amended Complaint, which
19 named defendants and added additional claims. Given the recent identification of officers
20 involved in incidents set forth in the Complaint, the Parties require additional time to conduct
21 further discovery and investigate the matter.

22 Additionally, counsel for the Parties in this matter are litigating several other unrelated
23 matters against each other which are well-advanced and have competing demands, and while
24 competing demands of litigation are merely one of many reasons for the instant request, it
25 should be noted that the other litigation between the same counsel involving similar issues can
26 only benefit from expanded discovery so that in other litigation, similar requests can be
27 expedited because they may have been done at least in part in this case; in this case, it would
28 be a matter of a universal benefit to the ends of justice and future efficiencies. In addition,

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1 counsel for the Parties are in the preliminary stages of settlement discussions regarding this
2 and other matters being litigated stemming from the Black Lives Matter Protests. Finally,
3 counsel for Plaintiff is preparing for a trial in July that requires significant time and attention.
4 Further, counsel for Defendants is out of the jurisdiction for two (2) weeks during June,
5 compounding the need for an extension of the discovery deadlines.

6 The Parties meet the excusable neglect standard as well. There are at least four (4)
7 factors in determining whether neglect is excusable: “(1) the danger of prejudice to the
8 opposing party; (2) the length of the delay and its potential impact on the proceedings; (3) the
9 reason for the delay; and (4) whether the movant acted in good faith.” *Erection Co. v. Archer*
10 *W. Contractors, LLC*, No. 2:12-cv-0612-MMD-NJK, 2013 U.S. Dist. LEXIS 159029, at *7
11 (D. Nev. Nov. 6, 2013) (citing *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S.
12 380, 395 (1993)). The determination of whether neglect is excusable is ultimately an equitable
13 one, taking account of all relevant circumstances surrounding the party’s omission. *Pioneer*,
14 507 U.S. at 395.

15 In this matter, the first factor concerning prejudice to the opposing party does not
16 apply, as the Parties have agreed to stipulate to an extension of time. The three (3) remaining
17 factors also weigh in favor of finding excusable neglect. In addition to submitting this as a
18 joint stipulation, the length of delay is modest. The Parties are only now moving to extend the
19 initial expert deadline because recently uncovered facts and information has illuminated the
20 need potential utilization of experts in this matter. In terms of potential impact on the
21 proceedings, those too are minimal, particularly in light of Plaintiff’s outstanding Motion to
22 Amend Complaint and Motion for Relief and the Parties’ diligence in litigating this matter.
23 Further, discovery is moving forward in a steady pace and the Parties are continuing to
24 conduct discovery and coordinate depositions. The third factor the court considers is the
25 reason for the delay. Here, the Parties moved diligently to extend the deadlines for initial and
26 rebuttal experts once recognizing the need to potentially utilize experts in this matter. Lastly,
27 the Parties bring this request jointly in good faith and not for any purpose of delay.

28 Thus, the standards to extend all requested deadlines is satisfied here.

IV. **PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DEADLINES**

	Current Deadline	Proposed New Deadline
Amend Pleadings and Add Parties	February 7, 2023	Past/Unchanged
Initial Expert Disclosures	March 9, 2023	September 7, 2023
Rebuttal Expert Disclosures	April 8, 2023	October 7, 2023
Discovery Cut-Off	August 7, 2023	December 5, 2023
Dispositive Motions	September 5, 2023	January 3, 2024
Pretrial Order	October 5, 2023	February 2, 2024 (If dispositive motions are filed, the deadline shall be suspended until thirty (30) days after the decision of the dispositive motions or further order of the Court.)

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Based on the foregoing stipulation and proposed deadlines plan, the Parties request that the Discovery Plan and Scheduling Order deadlines be extended additional one hundred twenty (120) days so that the parties may conduct additional discovery and conduct depositions.

Dated this 6th day of June, 2023.

Dated this 6th day of June, 2023.

MCLETCHIE LAW

MARQUIS AURBACH

By: /s/ Margaret A. McLetchie

By: /s/ Jackie V. Nichols

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Las Vegas, Nevada 89101

Metropolitan Police Department,

Attorneys for Plaintiff Alexandria

Sheriff Joseph Lombardo, Lt. Kurt

Devore

McKenzie, Officer Sonny Uranich, and

Officer Patrick Weslowski

ORDER

IT IS SO ORDERED this 8th day of June, 2023.



United States District Court Magistrate Judge

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN AND SCHEDULING ORDER DEADLINES (SECOND REQUEST)** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 6th day of June, 2023.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☐ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

N/A

/s/ Krista Busch
An employee of Marquis Aurbach

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